

REMARKS

This amendment is being filed with a Request for Continued Examination (RCE).

Claims 1-23 were presented for examination and were pending in this application. In an Official Action dated May 4, 2006, claims 1-5, 8-10, 12-16 and 19-22 were rejected; claims 6, 7, 11, 17 and 18 were objected to; claim 23 was allowed. Applicant thanks Examiner for examination of the claims pending in this application and addresses Examiner's comments below.

Applicant herein amends claims 1, 12, 21, and 22. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution of the application in a manner consistent with the Patent Office Business Goals, 65 Fed. Reg. 54603 (Sept. 8, 2000). In making these amendments, Applicant has not and does not narrow the scope of the protection to which Applicant considers the claimed invention to be entitled and does not concede that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, Applicant reserves the right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Based on the above Amendment and the following Remarks, Applicant respectfully requests that Examiner reconsider all outstanding objections and rejections, and withdraw them.

Response to Rejections Under 35 USC 102(e) and (b)

In the Office Action the Examiner rejects claims 1-4, 12-15 and 21-22 under 35 USC § 102(e) as allegedly being anticipated by U.S. Published Patent Application No. 2003/0002438 (“*Yazaki*”).

Based on the above Amendment and the following Remarks, Applicant respectfully submits that for at least these reasons claims 1-4, 12-15 and 21-22 are patentably distinguishable over the cited reference. Therefore, Applicant respectfully requests that Examiner reconsider the rejection, and withdraw it.

In a rejection under 35 U.S.C. § 102, each and every claim element must be present in the applied reference. However, the Examiner has failed to point out any prior art teaching which anticipates the explicit recitation of “the capture system reallocating buffers if a number of priority flows changes” in claim 1. As understood *Yazaki* at best merely discloses output buffer 13A for high priority and output buffer 13B for low priority. (paragraph 040). The packets are read from the buffer 13A for high priority transmission, and the packets are read from the buffer 13B for low priority transmission only when the buffer 13A is empty. (paragraph 0066). But the system of *Yazaki* does not include reallocating buffers if a number of priority flows changes as recited in claim 1. Lacking at least this claimed feature, *Yazaki* cannot render claim 1 unpatentable. For similar reasons, *Yazaki* cannot render claims 2-3, 12-15 and 21-22. Therefore, it is respectfully submitted that the rejection is improper and should be withdrawn.

Response to Rejection Under 35 USC 103(a)

In the Office Action the Examiner rejects claims 5, 8-9, 16, and 19-20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Published Patent Application No.

2003/0002438 (“*Yazaki*”) in view of U.S. Patent 6,912,225 (“*Kohzuki*”). This rejection is respectfully traversed.

Based on the above Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider the rejection, and withdraw it.

“35 U.S.C. §103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more others. After indicating that the rejection is under 35 U.S.C. § 103, there should be set forth [by the Examiner] (1) the difference or differences in the claim over the applied references, (2) the proposed modification of the applied references necessary to arrive at the claimed subject matter, and (3) an explanation of why such proposed modification would be obvious.” MPEP § 706.02.

Even if the combination of *Yazaki* and *Kohzuki* were proper, which applicants do not concede, the combination does not disclose or suggest “the capture system reallocating buffers if a number of priority flows changes” or the “wherein in priority queuing mode the capture buffer is segmented into priority and non-priority queues, wherein the buffer space for each queue varies dynamically based on the arrival of data that meets priority criteria” recited in claim 5.

Yazaki is described above, and does not disclose or suggest “the capture system reallocating buffers if a number of priority flows changes” as noted above, or, as admitted in the office action, “wherein in priority queuing mode the capture buffer is segmented into priority and non-priority queues, wherein the buffer space for each queue varies dynamically based on the arrival of data that meets priority criteria” recited in claim 5.. *Kohzuki* does not disclose or suggest these features either. As understood, *Kohzuki* at best merely discloses priority queues 100 and non-priority queues 101. (column 6, lines 55-64). The queues 100-x

and 101-x are for a user X. But the buffers of *Kohzuki* are not reallocated nor does the buffer space dynamically vary based on the arrival of data. The sections of *Kohzuki* cited in the office action refer to the queues 100 and 101 being prepared for a user, but does not allocate or reallocate based on a number of priority flow changes or vary buffer space based on arrival of data. (see column 4, lines 3-11). The shaping unit 1 of *Kohzuki* determines the queue of a packet and the transmission times for each queue. (column 6, lines 26-65). But the shaping unit 1 of *Kohzuki* does not allocate or reallocate based on a number of priority flow changes or vary buffer space based on arrival of data as recited in claim 5.

Lacking these features individually, the combination of *Yazaki* and *Kohzuki* do not disclose or even suggest the buffers recited in claim 5.

For all of the above reasons, Applicant respectfully asserts that claim 5 is patentable over *Yazaki* and/or *Kohzuki*, and therefore respectfully request that the Examiner reconsider and withdraw the rejection. For similar reasons, Applicant respectfully asserts that claims 8-9, 16 and 19-20 are also patentable *Yazaki* and/or *Kohzuki*, and therefore respectfully request that the Examiner reconsider and withdraw the rejection.

In the Office Action the Examiner rejects claim 10 U.S.C. §103(a) as allegedly being unpatentable over U.S. Published Patent Application No. 2003/0002438 ("*Yazaki*") in view of U.S. Patent 6,023,454 ("*Deroux-Dauphin*"). This rejection is respectfully traversed.

This rejection is respectfully traversed.

Based on the above Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider the rejection, and withdraw it.

Even if, the references could be combined, which the Applicant does not concede, the result would still not constitute the claimed invention. Specifically, the references

individually or in combination does not suggest "the capture system reallocating buffers if a number of priority flows changes" as recited in claim 10. *Yazaki* is described above.

Deroux-Dauphin is cited for an FPGA. *Deroux-Dauphin* does not disclose or even suggest the "capture system reallocating buffers if a number of priority flows changes" as recited in claim 10.

Lacking these features individually, the combination of *Yazaki* and *Deroux-Dauphin* do not disclose or even suggest the buffers recited in claim 10. *Deroux-Dauphin* discloses routing notes and routing using priority (see column 4, lines 33-43), but does not disclose or even suggest the "capture system reallocating buffers if a number of priority flows changes" as recited in claim 10 nor has *Deroux-Dauphin* been cited for such feature.

For all of the above reasons, Applicant respectfully asserts that claim 10 is patentable over *Yazaki* and/or *Deroux-Dauphin*, and therefore respectfully request that the Examiner reconsider and withdraw the rejection.

Claims 6-7, 11 and 17-18 have been objected to but would be allowable if rewritten in independent form. The base claims have been amended, and thus it is respectfully submitted that these claims 6-7, 11 and 17-18 are allowable without being rewritten. Withdrawal of the objection is respectfully requested. Applicant does not disclaim the subject matter of claims 6-7, 11 and 17-18, and thus reserves the right to amend claims without the amendments to the base claims or to add new claims directed to the subject matter of claims 6-7, 11 and 17-18 as they stand before entry of this amendment.

The allowance of claim 23 is noted with appreciation.

Conclusion

In sum, Applicant respectfully submits that claims 1 through 23 as presented herein, are patentably distinguishable over the cited references (including references cited, but not applied). Therefore, Applicant requests reconsideration of the basis for the rejections to these claims and request allowance of them.

In addition, Applicant respectfully invites Examiner to contact Applicant's representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,
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AND JACK GORAL

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